

DRAFT

Modification to City Code, Chapter 17

Chapter 17.13 Parks and Recreation System Development Charge

-Note

(New Chapter added by Ordinance No. 172614, effective October 1, 1998.)

17.13.010 Scope and Purposes.

(Amended by Ordinance Nos. 181669 and 187150, effective July 1, 2016.)

- A. New development within the City of Portland contributes to the need for capacity increases for parks and recreation facilities and, therefore, new development should contribute to the funding for such capacity—increasing improvements. This SDC will fund a portion of the needed capacity—~~increases~~ increasing capital improvement for urban, neighborhood, and community parks, trails, and habitat facilities projects as identified in the City of Portland Parks and Recreation SDC Capital Improvement Plan (SDC-CIP).
- B. ORS 223.297 through 223.314 grant the City authority to impose a SDC to equitably spread the costs of essential capacity—increasing capital improvements to new development.
- C. The SDC is incurred upon the application to develop property for a specific use or at a specific density. The decision regarding uses, densities, and/or intensities causes direct and proportional changes in the amount of the incurred charge. The SDC is separate from other fees provided by law or imposed as a condition of development. It is a fee for service because it contemplates a development's receipt of parks and recreation services based upon the nature of that development.
- D. The SDC imposed by this Chapter is not a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or legislation implementing that section. This Chapter does not shift, transfer, or convert a government product or service, wholly or partially paid for by ad valorem property taxes, to be paid for by a fee, assessment or other charge, within the meaning or Section 11g, Article XI of the Oregon Constitution.
- E. The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 through 223.314 to assure the provision of capacity—increasing improvements for parks and recreation facilities as ~~contemplated in Parks 2020 Vision, July 2001; Recreational Trail Strategy, June 2006; Parks Natural Area Acquisition Strategy, November 2006; and~~ identified in the Parks and Recreation SDC-CIP incorporated as an Appendix to the most recently adopted Parks SDC Methodology Report. The Parks and Recreation SDC-CIP is ~~not to be confused with~~ different from the City of Portland

Parks and Recreation Capital Improvement Program and may be modified from time to time by the Council or by the Director, as provided in this Chapter.

- F. This Chapter is intended only to be a financing mechanism for a portion of the capacity increases needed for parks and recreation facilities associated with new development and does not represent a means to fund maintenance of existing facilities or the elimination of existing deficiencies.
- G. ~~The SDC imposed by this Chapter is supported by the most recent~~ The City hereby adopts the report entitled “Park System Development— Charge Methodology Update Report” (dated April 15, 2015), and incorporates herein by this reference the assumptions, conclusions and findings in the report which refer to the determination of anticipated costs of capital improvements required to accommodate growth, and the rates for the parks and recreation SDC to finance these capital improvements. This report is hereinafter referred to as “SDC Methodology Report” and is attached to Ordinance No. 187150 passed by Council on May 27, 2015 adopted by the Council. ~~The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.~~

17.13.020 Definitions.

(Amended by Ordinance Nos. 173386, 173565, 174617, 176511, 181669 and 187150, effective July 1, 2016.)

- A. “Acquisition” means the addition, by purchase or donation, of a real property interest, and includes such physical activities, referred to as “stabilization,” as are necessary to make the land suitable for development or use, including, but not limited to, fencing, demolition of existing structures, landscaping and restoration, or installation of security systems.
- AB. “Administrator” means that person, or designee, appointed by the City Council designated by the Director to manage and implement this Parks and Recreation SDC program.
- CB. “Applicant” means the person or entity who applies for a building permit.
- DC. “Application” means the Parks SDC Information Form together with other required forms and documents submitted at the time of application for a building permit.
- ED. “Building Official” means that person, or designee other designated authority charged with the administration and enforcement of the state building codes for the City; or a duly authorized representative, certified by the State and designated as such to administer the State Building Codes for the City.
- FE. “Building Permit” means that permit issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code Section 301 or as amended, and the State of Oregon One and Two Family Dwelling Code Section R-109 or as amended. In addition, Building Permit shall mean the Manufactured

~~Home Installation Permit issued by the City Building Official, relating to the placement of manufactured homes in the Citystate building codes.~~

- GF.** “Campus Housing” means dormitories and other buildings arranged and designed as living quarters on a college or university campus for students enrolled at that college or university. College or university campus is any property owned or controlled by the college or university within a Conditional Use Master Plan, Impact Mitigation Plan or other campus zone boundary.
- HG.** “Central City” means the area identified in the SDC Methodology Report as the Central City Service Area, and whose boundaries are included on the map in the SDC Methodology Report. This area is also referred to as the Central City Sub--Area.
- IH.** “City” means the City of Portland, Oregon.
- I.** ~~“Comprehensive Plan” means the City’s generalized, coordinated land use map and policy statement that interrelated all functional and natural systems and activities relating to the use of lands, including but not limited to sewer, water and transportation systems, educational and recreation facilities and natural resources and air and water quality management programs.~~
- J.** “Condition of Development Approval” is any requirement imposed on an Applicant by a City land use or limited land use decision, site plan approval or Building Permit either by operation of law, including but not limited to the City Code or Rule or regulation adopted thereunder, or a condition of approval.
- K.** “Cost Index,” as related to construction costs, means the Seattle Area Engineering News Record (ENR) Construction Cost Index and, as related to land acquisition costs, means the change in the average market value of residential and commercial land in the City sum of the Central City and Non-Central City (the Sub-Areas)’ ratios of unimproved land values to the number of accounts, according to the records of the Multnomah County Tax Assessor.
- L.** “Credit” means the amount by which an Applicant may be able to reduce the SDC fee as provided in this Chapter.
- M.** ~~“Development” means a building or other land construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of parks and recreation capital improvements or which may contribute to the need for additional or enlarged parks and recreation capital facilities.~~
- M.** “Development Agreement” means a written agreement approved by the Director that is:
- 1.** An agreement between the City and another entity that includes as an element the conveyance to the City of capacity-increasing Real Property Interests or capacity-increasing capital improvements, for parks and

recreation use, in connection with the undertaking of a New Development that is subject to the SDC imposed by this Chapter; or

2. An agreement between agencies of the City that includes as an element the acquisition of capacity-increasing Real Property Interests or construction of capacity-increasing capital improvements, for parks and recreation use, in connection with a New Development that is subject the SDC imposed by this Chapter; or
3. An agreement for the donation of capacity-increasing Real Property Interests or capital improvements, for parks and recreation use, that provides for the consideration of the donation as a Qualified Public Improvement in a subsequent New Development subject to the SDC imposed by this Chapter; or
4. An agreement under subsections 1-3 of this Section that, instead of or in addition to the conveyance of Real Property Interests or capital improvements, provides for donation to the City of money to be used for the acquisition of capacity-increasing Real Property Interests or the development of capacity-increasing capital improvements, for parks and recreation use.

- N. “Director” means the Director of ~~the Bureau of~~Portland Parks & Recreation for the City of Portland.
- O. “Dwelling Unit” means ~~a building or a portion of a building consisting of one or more~~ habitable rooms, as defined in City Code section 24.15.075. ~~which include sleeping, cooking, and plumbing facilities and are arranged and designed as living quarters for one family or household.~~
- P. “Non-Central City” means all portions of the City outside the Central City Service Area.
- Q. “Non-Residential Development” means development which does not include ~~Dwelling Units.~~ When a Development contains both Dwelling Units and other uses, that portion of the Development containing Dwelling Units shall be considered “Residential Development,” and that portion devoted to other uses shall be considered “Non-Residential Development.”
- R. “New Development” means ~~d~~Development for which a Building Permit is required, including existing development for which a required Building Permit was not obtained.
- S. “Occupancy Group Codes” means the use codes (A-1, B, H, e.g.) in the *Oregon Structural Specialty Code, “Use and Occupancy Classification.”*

- T. “Occupancy Use Types” means the occupancy classifications in the *Oregon Structural Specialty Code*, “*Use and Occupancy Classification*.”
- U. “Parks and Recreation SDC Capital Improvement Plan,” also called the Parks and Recreation SDC-CIP, means the City program set forth in the “SDC Methodology Report,” as amended in accordance with this Chapter, of projects to be funded with Parks and Recreation SDC revenues.
- V. “Permit” means a Building Permit.
- W. “Previous Use” means the most intensive permitted use conducted at a particular property within ~~the past 36 months from before~~ the date of completed Application. Where the ~~site~~ property was used simultaneously for several different uses (mixed use) ~~then, for the purposes of this Chapter,~~ all of the specific use categories shall be considered. ~~Where one use of the site accounted for 70% or more of the total area used, then that dominant use will be deemed to be the sole Previous Use of the site. Where the Previous Use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole Previous Use of the property for purposes of this Chapter.~~
- X. “Proposed Use” means the use proposed by the Applicant for the New Development. ~~Where the Applicant proposes several different uses (mixed use) for the New Development then, for purposes of this Chapter, all of the specific use categories shall be considered. Where the Proposed Use is composed of a primary use with one or more ancillary uses that support the primary Proposed Use and are owned and operated in common, that primary use shall be deemed to be the sole Proposed Use of the property for purposes of this Chapter.~~
- Y. “Qualified Public Improvement” means any parks and recreation system capital facility or conveyance of a Real Property ~~Interest in real property~~ that increases the capacity of the City’s Parks and Recreation System, is approved by the Commissioner-in-Charge or designee, and meets the definition and requirements of qualified public improvements under ORS 223.304(4) and 223.304(5). Additionally, unless there is a conflict with ORS 223.304(4) or 223.304(5), the following will be considered qualified public improvements:
1. ~~increases the capacity of the City’s Parks and Recreation System;~~
 2. ~~pertains to the park categories defined in *Parks 2020* or in the Park SDC/CIP: local access, city-wide access, regional, urban, neighborhood or community parks, botanic and community gardens trails, or habitat. If the proposed donation is a habitat, it must be adjacent to a Portland Parks property, or it must be a minimum of 3 contiguous acres with at least 66% of its area covered by the City’s environmental overlay zone. If the proposed donation is a trail, it must be designated as a recreational trail on the City’s Comprehensive Plan;~~

~~3. is approved by the Director; and~~

~~4. is in any of the following categories:~~

~~a. Is a capital improvement listed on the City's Parks and Recreation SDC CIP or two year funded list of City of Portland Parks and Recreation Capital Improvement Program, regardless of the improvement's proximity to the Applicant's New Development site, and is not a Real Property Interest already committed by contract or other obligation to public recreational use;~~

~~b. Is a public recreational trail improvement within the Willamette River Greenway overlay zone as designated on the Official Zoning Maps within the Central City plan boundary, and that exceeds all development standards currently contained in PCC Title 33 (Chapter 33.440, 33.272, and 33.248). Credits will be given for improvements which will result in enhancement for habitat or public recreational use on the landward side of the top of the bank. Credits will be valued at 100% of the value of Real Property Interests that ensures perpetual public access (subject to reasonable temporary closures) and/or improvements that occur on the landward side of the required 25' minimum Greenway setback width, if the increase of width is at least 5'. The credit transfer mechanism described in 17.13.070 E is applicable to Real Property Interests at 25 percent of its appraised value. The use of Greenway credit transfers are valid only for New Development within the Central City, and is not available to Applicants that are using the Willamette River Greenway Bonus Option described in City Code 33.510.210 C. 9.~~

~~Reasonable improvements within the required 25' minimum Greenway setback shall also receive full Credit only for improvements that exceed the current basic required standards described in PCC Title 33 (Chapters 33.440, 33.272, and 33.248) or landscaping or mitigation plantings that are required as a Condition of Development Approval. The Credit transfer mechanism described in 17.13.070 E is not applicable to Greenway improvements. Greenway improvement SDC Credits may be used only on the New Development that included the Greenway improvement, including subsequent phases of multi-phase Development.~~

~~e. Is a conveyance of Real Property Interests or capital improvements for public recreational use that is required as a condition of development approval. For purposes of this section, the phrase "required as a condition of development approval" means~~

- ~~(1) requirements to construct improvements or convey Real Property Interests for public recreational use that are imposed as specifically listed conditions pursuant to a Code provision authorizing such conditions, or~~
- ~~(2) features of a development that are specifically stated as an element of a proposal that is approved by the review body.~~

~~d. An improvement or conveyance of Real Property Interests for parks and recreational use which does not otherwise meet the requirements of this section, is not already committed by contract or other obligation to public recreational use, and in the opinion of the Director in his or her reasonable discretion the improvement or conveyance serves the City's public parks and recreation needs as well or better than the improvements or conveyance described above.~~

- ~~1. 5. A conveyance of Real Property Interests or capital improvements for public recreational use specified in a Development Agreement between the City and a developer entered into before the effective date of this Ordinance. Conveyances of Real Property Interests or capital improvements for public recreational use specified in a Development Agreement between the City and a developer entered into after the effective date of this Ordinance are excluded from the definition of "qualified public improvement" unless the Development Agreement specifically provides otherwise. If the Development Agreement does include conveyances of Real Property Interests that are intended to be eligible for Parks SDC Credits, the value of the Real Property Interests must be established at the time the Development Agreement is finalized by the appraisal methods described in section 17.13.070. The date of valuation is the date of the final Development Agreement. If there are subsequent amendments to the Development Agreement, the date of valuation will be the date of the original Development Agreement unless otherwise specified in future amendments.~~
2. A donation of money to the City to be used for acquisition of Real Property Interests or capital improvements for parks and recreational use, if memorialized in a Development Agreement.
3. A donation of a habitat or trail. If the donation is a habitat, it must be adjacent to a Portland Parks property, or it must be a minimum of 3 contiguous acres with at least 66% of its area covered by the City's environmental overlay zone. If the donation is a trail, it must be a major public trail designated on the City's Official Zoning Maps.
4. An improvement or conveyance of Real Property Interests for parks and recreational use that does not otherwise qualify as a Qualified Public Improvement; is not separately eligible for a credit, bonus, or other compensation; and, in the opinion of the Director in their reasonable discretion, serves the City's public parks and recreation needs.

- ~~6. In addition to capital improvements described in section 17.13.020.Y.1. through 5., the term “qualified public improvement” also includes agreements for long-term enhanced maintenance of park facilities within the City’s Parks and Recreation System, provided the following requirements are met:~~
 - ~~a. The Parks and Recreation System facilities for which enhanced maintenance is provided are located within the Central City Plan District as identified in PCC chapter 33.510;~~
 - ~~b. The long-term maintenance obligations are specifically described in a binding agreement that contains adequate financial assurances to ensure performance of the maintenance obligations for the duration of the agreement;~~
 - ~~e. The Parks Director has determined the net present value of the maintenance obligations in order to establish the amount of SDC credits; and~~
 - ~~d. The Parks Director has determined, in each instance where long-term maintenance obligations are accepted, that acceptance of the long-term maintenance obligations will promote the interests of the City’s Parks and Recreation System as well or better than acceptance of capital improvements.~~

Z. “Rate Group” means one of four rates or groups of rates, each of which has its own percentage split between land costs and development costs as follows:

Central City	Non-Central-City
71% Land Portion 29% Improvement Portion	49% Land Portion 51% Improvement Portion

- AA.** “Real Property Interests” means fee title, easements, or other permanent interests in real property as documented in a written conveyance.
- BB.** “Remodel” or “remodeling” means to alter, expand or replace an existing structure.
- CC.** “Resident Equivalent” means a measure of the impact on parks and recreation facility needs created by Non-Residential Development, as compared to the impact of a resident.

- DD. “SDC Methodology Report” means the methodology report entitled *Parks System Development Charge Methodology Update Report*, dated April 15, 2015 and adopted as Exhibit ~~A~~B to Ordinance 187150, as may be modified.
- EE. “Temporary use” means a construction trailer or other non-permanent structure.

17.13.030 Rules of Construction.

For the purposes of administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction shall apply:

- A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
- B. The word “shall” is always mandatory and not discretionary; the word “may” is permissive.
- C. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- D. The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” ~~and~~ “occupied for.”
- E. Where a regulation involves two or more connected items, conditions, provisions, or events:
 - 1. “And” indicates that all the connected terms, conditions, provisions or events shall apply;
 - 2. “Or” indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.
- F. The word “includes” shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

17.13.040 Application.

(Amended by Ordinance Nos. 181669 and 187150, effective July 1, 2016.) This Chapter applies to all New Development throughout the City of Portland. The amount of the Parks and Recreation SDC shall be calculated according to this section, using the rates set forth in the SDC Methodology Report.

- A. Except as otherwise provided in this Chapter, a Parks and Recreation SDC shall be imposed upon all New Development for which an Application is filed on or after the effective date of this ordinance.

- B.** The Applicant shall at the time of Application provide the Administrator with the information requested on an SDC application form regarding the Previous Use and Proposed Use(s) of the property, including the following:
1. A description of each of the Previous Uses and Proposed Uses for the property for which the Permit is being sought, ~~with sufficient detail to enable the City to calculate~~ including the number of Dwelling Units and square footage for the entire property under the Previous Use and for the Proposed Use(s) of the New Development.
 2. For residential uses, ~~the~~ number of residential dwellings and the square footage of each Dwelling Unit.
 3. For non-residential uses, ~~the~~ square footage for each occupancy use type (i.e., office, retail, etc.).
- C.** Except as otherwise provided in this Chapter, the amount of the SDC due shall be calculated as follows:
1. Calculating the fee for the Proposed Uses (“the Proposed Use Fee”);
 - a. Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual Dwelling Unit;
 - b. Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per--square--foot occupancy fee; and
 - c. Adding the fees for the proposed Dwelling Unit and non-Dwelling Unit uses.
 2. Calculating the credit for the Previous Uses (“the Previous Use Credit”); and
 - a. Multiplying the number of Dwelling Units by their appropriate per-unit fee, based on square footage of each individual Dwelling Unit;
 - b. Multiplying the square footage of each non-Dwelling Unit Proposed Use by the appropriate per--square--foot occupancy fee; and
 - c. Adding the credits for the previous Dwelling Unit and non-Dwelling Unit uses.
 3. Subtracting the Previous Use Credit from the Proposed Use Fee to arrive at the net Park SDC due.
- ~~by determining the number of dwelling units, square footage of each dwelling unit, and square footage of non residential development for the previous use(s) of the property and the number of dwelling units, square footage of each dwelling unit, and/or square footage of non residential development for all of the proposed use(s); calculating the total SDC for the previous use(s) and the proposed uses(s);~~

~~and subtracting the total SDC for the previous use(s) from the total SDC for the proposed use(s) to arrive at the net Park SDC due.~~

~~If the Pprevious Uuse(s) were vacant for more than fifty percent of the five years36 months prior to the date of the application, the SDC due shall be the full amount of the SDC for the Pproposed Uuse(s); and no reduction credit shall be made provided for Pprevious Uuse(s).~~

D. ~~Notwithstanding any other provision, t~~The dollar amounts of the SDC set forth in the SDC Methodology Report are based on 2013 values and shall be adjusted on July 1, 2017~~6~~ and thereafter annually on July 1st to account for changes in the costs of acquiring and constructing parks facilities. The adjustment factor shall be based on:

1. ~~T~~The percent change in average~~the~~ Cost Index for land acquisition per 17.13.020.K ~~market value of residential and commercial land in the City, by SDC Sub-Area, measured from Tax Year 2013-14, annually, to the most recent annual tax year report, according to the records of the Multnomah County Tax Assessor;~~₂
2. ~~T~~The portion of Rate Group growth costs for land identified in Section 17.13.020 Z;₂
3. ~~T~~The percent change in the Cost Index for average~~construction costs per 17.13.020.K, measured from 2013, annually, to the quarter prior to the rate change, according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index, and~~
4. ~~T~~The portion of Rate Group growth costs for development identified in Section 17.13.020 Z;₂

The adjustment factor for each Rate Group shall be determined as follows:

$$\begin{aligned} & \text{Percent change in ~~L~~and ~~V~~alue Cost Index multiplied by the Rate Group's} \\ & \text{~~L~~and ~~p~~Portion (percent)} \\ + & \text{Percent change in Construction Cost Index multiplied by the Rate Group's} \\ & \text{~~d~~Development ~~p~~Portion (percent)} \\ = & \text{Park SDC Rate Group Adjustment Factor} \end{aligned}$$

The resulting Adjustment Factor ~~wi~~shall be multiplied by the adopted SDC rates by Rate Group and added to the base charges.

E. Notwithstanding any other provision, the adjustment shall not exceed a total of 12 percent in any consecutive two-year period. This ~~shall~~is be calculated by dividing the proposed new rate by the rate of two years prior; or, if a new rate structure was adopted less than two years prior, by the variance from the rate most recently adopted. If the resulting change is greater than 12 percent, the rate ~~wi~~shall be set at 12 percent variance from the rate of two years prior; or, if a new rate structure

was adopted less than two years prior, by the variance from the rate most recently adopted.

17.13.050 Application Requirements

(Amended by Ordinance Nos. 176955, 181669 and 187150, effective July 1, 2016.) All Applications must meet the application completeness requirements of the Planning Bureau and Bureau of Development Services. ~~Where construction requires a land division, the Applicant must have final plat approval prior to submitting a Building Permit Application.~~

This Ordinance ~~shall apply~~ applies to all Applications for Building Permits for New Development, which Applications are not yet complete as of the effective date, and to those which are subsequently submitted or made complete. Fees are assessed based on the rate schedule in use on the date that the permit ~~application~~ Application is made complete. For purposes of this Section, a complete Application ~~shall~~ must meet all the requirements of the Bureau of Development Services.

17.13.060 Partial and Full Exemptions.

(Amended by Ordinance Nos. 176511, 179008, 181669, 183448, 187150, ~~effective July 1, 2016~~ and 189050, as amended, effective August 1, 2018.) The uses listed and described in this Section ~~wi~~shall be exempt, either partially or fully, from payment of the Parks and Recreation SDC. Any Applicant seeking an exemption under this Section ~~must~~shall specifically request that exemption no later than the time of the City's completion of the final inspection. Where New Development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the New Development which does not qualify for any exemption under this section ~~wi~~shall be subject to the full SDC. Should the Applicant dispute any decision by the City regarding an exemption request, the Applicant must ~~apply for an Alternative Exemption calculation~~ appeal as provided by Section 17.13.120080. The Applicant has the burden of proving entitlement to any exemption so requested.

- A. Temporary uses are fully exempt so long as the use or structure proposed in the New Development will be used for not more than 180 days in a single calendar year.
- B. Affordable housing is exempt pursuant to Section 30.01.095.
- C. Alteration permits for ~~tenant improvements~~ commercial interior alteration work are fully exempt, including commercial alterations that change occupancy. This exemption does not apply to alterations that create additional Dwelling Units.
- D. New construction or remodeling of Dwelling Units where no additional Dwelling Unit(s) are created and the square footage of each remodeled ~~Dwelling u~~Unit does not change the range of square footage in the SDC Methodology Report—is fully exempt.

- E. New construction or remodeling of ~~N~~on-~~R~~esidential ~~D~~evelopment where no additional square footage or change of use is created is fully exempt.
- F. Campus Housing is fully exempt.
- G. For New Development which includes a mix of exempt and non-exempt forms of ~~d~~evelopment, the applicable exemption(s) ~~shall~~ apply only to that portion of the New Development to which the exemption applies.
- H. Certain accessory ~~D~~welling ~~U~~nits are exempt pursuant to Section 17.14.070.

17.13.070 SDC Credits ~~and SDC Reimbursements.~~

(Amended by Ordinance Nos. 172732, 172758, 173386, 174617, 181669 and 187150, effective July 1, 2016.) SDC Credits:

- A. The City ~~may~~shall grant a Credit against the Parks SDC, which is otherwise assessed for ~~an~~ New Development, for any Qualified Public Improvement(s) constructed by or conveyed by the Applicant as part of that New Development. ~~For purposes of this section, a Qualified Public Improvement will be considered part of a New Development. The person or entity constructing or conveying the Qualified Public Improvement must be the same person or entity as the Applicant. At the time when the application for a credit is made, and the New Development must be~~ identified by a Building Permit Number. Credit will not be allowed for a Qualified Public Improvement that was conveyed more than 36 months prior to the date of the request for the Credit, unless a Development Agreement provides otherwise. The Applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC Credit.
- B. To obtain an SDC Credit, the Applicant must specifically request a Credit prior to the City's completion of the final inspection for the ~~N~~ew Development. In the request, the Applicant must identify the improvement(s) for which Credit is sought and explain how the improvement(s) meet the requirements for a Qualified Public Improvement. The Applicant ~~must~~shall also document, with credible evidence, the value of the improvement(s) for which Credit is sought. If, in the Administrator's opinion, the improvement(s) ~~is~~are a Qualified Public Improvements, and the Administrator concurs with the proposed value of the improvement(s), an SDC Credit ~~can~~shall be granted, if approved as outlined below. The value of the SDC Credits under this section shall be determined by the Administrator based on the cost of the Qualified Public Improvement, or the value of Real Property Interests, as follows:
 1. For Real Property Interests, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction.;
 2. For improvements yet to be constructed, value ~~wi~~shall be based upon the anticipated cost of construction. Any such cost estimates ~~must~~shall be

certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC Credit is sought. The City will give immediate credits based on estimates, but it will provide for a subsequent adjustment based on actual costs: a refund to the Applicant if actual costs are higher than estimated, and an additional SDC to be paid by the Applicant if actual costs are lower than estimated. The City ~~wish~~ shall inspect all completed Qualified Public Improvement projects before agreeing to honor any credits previously negotiated. The City ~~wish~~ shall limit credits to reasonable costs. Credits ~~wish~~ shall be awarded only in conjunction with an application for development.;

3. For improvements already constructed, value ~~wish~~ shall be based on the actual cost of construction as verified by receipts submitted by the Applicant.;

C. The Administrator will ~~respond to acknowledge receipt of~~ the Applicant's request in writing within 21 days of when the request is submitted. The Administrator ~~wish~~ shall ~~provide a written explanation of the decision~~ confirm whether the application is complete or indicate additional information needed. ~~on the SDC Credit request.~~ The Administrator will provide a written explanation of the process for making the decision on the SDC Credit request.

1. 1.—The “Request for Parks SDC Credit for Qualified Public Improvement” (Form PSDC-7) and accompanying information will be sent to the Parks SDC Administration Section, who will prepare a staff report and convene the SDC Credit Review Committee. If Requests are received, the Committee will be convened quarterly. Applications not deemed complete one month prior to a committee meeting may not be heard until the following quarterly meeting. The Committee ~~shall~~ will be appointed by the Commissioner—in—Charge, after consultation with the Director, and include, but not be limited to, be composed of representatives of the following ~~interests~~ organizations:

- a. Environmental
- b. Development community
- c. Business community
- d. Park advocate
- e. Neighborhood (one for each SDC Sub-Area)

a. ~~Metropolitan Home Builders Association~~

b. ~~Coalition for a Livable Future~~

e. ~~League of Women Voters~~

d. ~~Developer at Large~~

~~e. Parks Board Member or Designee~~

~~f. Portland Business Alliance Member or Designee~~

2. A representative of the Commissioner-in-Charge may attend and participate in the discussion but may not vote.

~~If a vacancy occurs, the organization will nominate a replacement. Members of the committee will be nominated by their respective organizations and appointed by the Director.~~

32. The Applicant may attend the Committee meeting to respond to questions and provide relevant testimony but may not be present during the Committee's deliberation and vote. The Administrator will present the public interest to the committee, including staff findings regarding the application. City Attorney staff may be present to respond to any legal questions. The Committee shall will review each proposal and the Administrator will provide a record of the Committee members present, forward at the recommendation, along with any minority viewpoints, and minutes of the Committee's discussion, including a summary of factors considered, to the Director and Commissioner-in-Charge. If a member of the Committee has a conflict of interest related to a specific application, the member must withdraw from the deliberations and recommendations. Each neighborhood interest representative may only participate in discussions of and recommendations for applications that pertain to the SDC Sub-Area that the member does not represent.

43. The Director (for SDC credits under \$250,000) or Commissioner-in-Charge (for SDC credits of \$250,000 and over) will make a decision within 60-30 days of the SDC Credit Review Committee meeting date application. If a minority viewpoint is presented along with a majority recommendation, the Commissioner and Director will meet to review jointly before issuing a decision.

543. Certified copies of the decision and the Committee recommendations will be shared with the applicant and members of the SDC Credit Review Committee digitally, or as a hard copy if requested. Copies of the decision and Committee recommendations will also be transmitted to the Auditor of the City of Portland, who will file them in a special record of such decisions. available in the digital City Archives, with a link on the Parks SDC webpage. All such decisions of the Director shall be accessible to the public under like terms as ordinances of the City of Portland. Any decision of the Director shall be subject to amendment, repeal, or alteration by the City Council, but any such action must take place within 30 days of the decision.

D. If the Applicant disputes the Administrator's decision to grant or deny with regard to an SDC Credit request, including the amount of the Credit, the Applicant may

~~appeal as provided in Section 17.13.120. the Applicant may seek an alternative SDC Credit calculation under Section 17.13.080. Any request for an Alternative SDC Credit calculation must be filed with the Administrator in writing within 10 calendar days of the written decision on the initial Credit request.~~

- E. When the construction or donation of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project. For purposes of this paragraph, “subsequent phases of the original development project” means additional New Development that is approved as part of the same regulatory development approval, (such as elements approved as part of the same conditional use master plan or planned unit development) or other portions of the same “site” (as defined by PCC 33.901.030) that are explicitly defined in the application for SDC credits as subsequent phases of the original development project. For multi-phased developments, the applicant must describe all subsequent phases at the time application is made for SDC credits and must document to the satisfaction of the SDC Administrator that the subsequent phases are integrally connected with the original development rather than independent projects.
- F. ~~The Applicant may request that the portion of the Park SDC credit relative to the Non-Local Access portion of the SDC fee be applied to their development anywhere within the City. The proportional breakdown of Local Access portion to Non-Local Access portion is 43% Local Access and 57% Non-Local Access.~~
- G. ~~—~~ Parks and Recreation SDC Credits are void and of no value if not redeemed with the City for payment of a Parks and Recreation SDC within ~~10~~5 years of the date of issuance.
- HG.** Notwithstanding any other provisions of this section, with respect to conveyances of Real Property Interests specified in Ddevelopment Agreements adopted before June 21, 2000, the value of the credit will be 25 percent of the appraised value of the Real Property Interest.

17.13.080 Alternative Calculation for SDC Rate, Credit, or Exemption.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

- A. Pursuant to this section, an Applicant may request an alternative Parks and Recreation SDC rate calculation, ~~alternative SDC Credit determination, or alternative SDC exemption, but only under the following circumstances:~~
- ~~1. —~~ 1. ~~The if the Applicant believes that the number of persons per Dwelling Unit for residential development, or resident equivalents per 1,000 square feet for non-residential development, resulting from the New Development is, or will be, less than the number of persons per Dwelling Unit or resident equivalents per 1,000 square feet established in the SDC Methodology Report, and for that reason, the Applicant’s SDC should be lower than that calculated by the City.~~

- ~~2. The Applicant believes the City improperly excluded from consideration a Qualified Public Improvement that would qualify for Credit under Section 17.13.070, or the City accepted for Credit a Qualified Public Improvement, but undervalued that improvement and therefore undervalued the Credit.~~
- ~~3. The Applicant believes the City improperly rejected a request for an exemption under Section 17.13.060 for which the Applicant believes it is eligible.~~

B. Alternative SDC Rate Request

1. The Applicant's alternative SDC rate calculation request must provide the Applicant's reasons ~~If an Applicant believes that the City's occupancy assumptions for the class of structures that includes the New Development are inaccurate because:~~
 - ~~a. F, in that, for residential development, the number of persons per Dwelling Unit is, or will be, less fewer than the number of persons per Dwelling Unit established in the SDC Methodology Report;~~ or
 - ~~b. Ffor non-residential development, the number of resident equivalents per 1,000 square feet is, or will be, fewer less than the number of resident equivalents per 1,000 square feet established in the SDC Methodology Report, the Applicant must request City consideration of an alternative SDC rate calculation, under this section, no later than the time the City completes the final inspection for the New Development.~~
- ~~2.~~ Alternative SDC rate calculations must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular New Development.
- ~~1.3.~~ The City ~~shall~~ will not entertain such an alternative SDC rate calculation request filed after the City has completed the final inspection for the New Development. Upon the timely request for an alternative SDC rate calculation, the Administrator ~~shall~~ will review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.
- ~~2.~~ In support of the Alternative SDC Rate request, ~~t~~The Applicant must provide complete and detailed documentation, including verifiable dwelling occupancy data, analyzed and certified by a suitable and competent professional. The Applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The

~~proposed Alternative SDC Rate calculation request must~~ shall include an explanation with particularity why demonstrate that the rate established in the SDC Methodology Report does not accurately reflect the New Development's impact on the City's capital improvements.

~~4.~~ _____

~~3.~~ _____

The Administrator shall apply the Applicant's alternative SDC ~~r~~Rate calculation if, in the Administrator's opinion, ~~the following are found:~~

a. The evidence and assumptions underlying the ~~a~~Alternative SDC ~~r~~Rate calculation are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this Section; ~~and~~

~~b.~~ ~~The calculation of the proposed Alternative SDC rate was by a generally accepted methodology;~~ and

~~b~~e. The proposed alternative SDC rate better or more realistically reflects the actual impact of the New Development than the rate set forth in the SDC Methodology Report.

~~5.~~ ~~If, in t~~The Administrator will respond with a written decision to the Applicant within 21 days of receipt of the Alternative SDC rate calculation request by email or certified mail and either approve or deny the request's opinion, all of the above criteria are not met, the Administrator shall provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative Parks and Recreation SDC Rate.

~~C.~~ Alternative SDC Credit Request

~~1.~~ ~~If an Applicant has requested an SDC Credit pursuant to Section 17.13.070, and that request has either been denied by the City or approved but at a lower value than desired, the Applicant may request an Alternative SDC Credit calculation, under this section, no later than the time the City completes the final inspection for the New Development. The City shall not entertain such a request filed after the City has completed the final inspection for the new Development. Upon the timely request for an Alternative SDC Credit calculation, the Administrator shall review the Applicant's calculations and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of this Section.~~

~~2.~~ ~~In support of the Alternative SDC Credit request, the Applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the Applicant is~~

~~seeking Credit. The Applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis, and techniques of analysis as a means of supporting the proposed Alternative SDC Credit.~~

- ~~3. The Administrator shall apply the Alternative SDC Credit if, in the Administrator's opinion, the following are found:
 - ~~a. The improvement(s) for which the SDC Credit is sought are Qualified Public Improvement(s), and~~
 - ~~b. The evidence and assumptions underlying the Applicant's Alternative SDC Credit request are reasonable, correct, and credible and were gathered and analyzed by an appropriate competent professional in compliance with generally accepted principles and methodologies, and~~
 - ~~c. The proposed Alternative SDC Credit is based on realistic, credible valuation analysis.~~~~
- ~~4. If, in the Administrator's opinion, any one or more of the above criteria is not met, the Administrator shall deny the request and provide to the Applicant (by Certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed Alternative Parks and Recreation SDC Credit proposal.~~

~~D. Alternative SDC Exemption Request:~~

- ~~1. If an Applicant has requested a full or partial exemption under Section 17.13.060 and that request has been denied, the Applicant may request an Alternative SDC Exemption under this Section, no later than the time the City completes the final inspection for the new Development. The City shall not entertain such a request filed after the City has completed the final inspection for the New Development. Upon the timely request for an Alternative SDC Exemption, the Administrator shall review the Applicant's request and supporting evidence and make a determination within 21 days of submittal as to whether the Applicant's request satisfies the requirements of Section 17.13.060 for exemptions.~~
- ~~2. In support of the Alternative SDC Exemption request, the Applicant must provide complete and detailed documentation demonstrating that the Applicant is entitled to one of the exemptions described in Section 17.13.060.~~
- ~~3. The Administrator shall grant the exemption if, in the Administrator's opinion, the Applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 17.13.060.~~

- ~~4. Within 21 days of the Applicant's submission of the request, the Administrator shall provide a written decision explaining the basis for rejecting or accepting the request.~~

17.13.090 Payment.

(Amended by Ordinance Nos. 173565, 181669 and 183447, effective July 1, 2010.)

- A. The Parks and Recreation SDC required by this Chapter to be paid is due upon issuance of the Building Permit. However, in lieu of payment of the full Parks and Recreation SDC, the Applicant may elect to pay the SDC in installments as is authorized by ORS ~~Chapter~~ 223.208 and Chapter 17.14 of this Code. If the Applicant elects to pay the SDC in installments, a lien will be placed against the property that is subject to the SDC Deferral or Installment Agreement entered into by the Applicant and the City on a form provided by the City, and which may provide for the deferral of payments as set forth in Chapter 17.14 of this Code. In any event, the Applicant shall either pay the SDC in full or enter into an SDC Deferral or Installment Agreement as provided in this Code, before the City will issue any Building Permits.
- B. Upon written request of Portland Parks & Recreation, the City Auditor is authorized to cancel assessments of SDCs, without further Council action, where the New Development approved by the Building Permit is not constructed and the Building Permit is cancelled.
- C. For property that has been subject to a cancellation of assessment of SDCs, a new installment payment contract shall be subject to the code provisions applicable to SDCs and installment payment contracts on file on the date the new contract is received by the City.

17.13.100 Refunds.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

Refunds may be given by the Administrator in the following instances:

- ~~A. upon finding that~~ A. If the Administrator determines that there was a clerical error in the calculation of the SDC.
- ~~B. If t~~ B. The City has not expended shall refund to the Applicant any SDC revenues ~~not expended~~ within ten (10) years of receipt.
- ~~A.C. U~~ A.C. Refunds will be given, upon request by the Applicant, when a building permit application is cancelled.

17.13.110 Dedicated Account and Appropriate Use of Account.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

- A. There is created a dedicated account entitled the "Parks and Recreation SDC Account." All monies derived from the Parks and Recreation SDC shall be placed in the Parks and Recreation SDC Account. Funds in the Parks and

Recreation SDC Account shall be used solely for the purpose of providing capacity-increasing capital improvements as identified in the adopted Parks and Recreation SDC-CIP as it currently exists or as is hereinafter amended, and eligible administrative costs. In this regard, SDC revenues may be used for purposes which include, but are not limited to:

1. design and construction plan preparation;
2. permitting;
3. land and materials acquisition, including any costs of acquisition, stabilization, or condemnation;
4. construction of parks and recreation capital improvements;
5. design and construction of new drainage facilities or streets required by the construction of parks and recreation capital improvements and structures;
6. relocating utilities required by the construction of improvements;
7. landscaping;
8. construction management and inspection;
9. surveying, soils and material testing;
10. acquisition of capital equipment that is an intrinsic part of a facility;
11. demolition that is part of the construction of any of the improvements on this list;
12. payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to provide money to construct or acquire parks and recreation facilities; and
13. direct costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement plan; and the costs of collecting and accounting for system development charges expenditures.

B. Money on deposit in the Parks and Recreation SDC Account shall not be used for:

1. any expenditure that would be classified as a maintenance or repair expense; or

2. costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
 3. costs associated with acquisition or maintenance of rolling stock.
- C. The City may prioritize SDC-funded projects and may spend SDC revenues for growth-related projects anywhere in the City. However, ~~during any period of twenty years, the City shall~~ may not spend, or allocate as a placeholder in the Parks and Recreation SDC Account for future spending, less SDC revenues for local-access parks within any ~~City parks planning~~ SDC service Ssub--Aarea than the total amount of SDC revenues collected for local-access parks within that Ssub--Aarea.
- D. The proportional breakdown of the Local Access portion to the Non-Local Access portion of the SDC fee is 43% to 57%.

17.13.120 Challenges and Appeals.

(Amended by Ordinance No. 174617, effective July 28, 2000.)

- A. ~~A.~~—Any person may challenge the expenditure of SDC revenues by filing a challenge to the expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure.
The fee for filing such a challenge shall be \$100.
- A.B. ~~The Applicant may challenge a decision on an SDC Credit as applied under section 17.13.070 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is posted online. The Applicant may challenge a decision on an SDC Exemption as applied under section 17.13.060 or on an SDC Alternative Rate as applied under section 17.13.080 by providing a written notice of appeal to the Administrator no more than 14 calendar days after the decision is provided to the Applicant. Appeals of decisions of the Administrator will be reviewed by the Director. Appeals of decisions of the Director will be reviewed by the Commissioner-in-Charge. An appeal of a Commissioner's decision, including but not limited to the Commissioner's review of the Director's decision, will be heard by the City Council. Appeals of decisions of the City Council will be reviewable solely under ORS 34.010 through 34.100.~~
- CB. Except where a different time for an Administrator's decision is provided in this Chapter, all Administrator decisions shall be in writing and shall be ~~delivered~~ sent to the Applicant within 21 days of Administrator receipt of an Application or other Applicant request for an Administrator determination. ~~Except where a different time for an appeal is provided in this Chapter, all appeals shall be in writing and shall be submitted within 14 calendar days after the decision is issued. Delivery shall be deemed complete upon the earlier of actual delivery to the Applicant or upon deposit by the Administrator in the mail, first class postage prepaid, addressed to the address for notice Applicant has designated in the Application. Any person may appeal any decision of the Administrator made~~

~~pursuant to this Chapter to the City Hearings Officer by filing a written request with the Administrator within fourteen (14) days after the delivery of the Administrator's written decision to the Applicant. The fee for appealing a decision to the Hearings Officer shall be \$250 and shall accompany the request for appeal. An outline of these appeal procedures shall be included in the Administrator's written decision.~~

~~C. The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100.~~

D. If an Applicant files an appeal under section 17.13.120 B, tThe City shall withhold all Permits and other approvals applicable to the Applicant's property of the New Development pending resolution of all appeals under this Chapter unless the SDC is paid in full or Applicant provides, for the pendency of the appeal, a financial guarantee or security for the charge in a form acceptable to the City Attorney.

17.13.130 City Review of SDC.

(Amended by Ordinance No. 181669, effective January 1, 2009.)

A. No later than every ~~ten~~five (10~~5~~) years as measured from initial enactment, the City shall undertake a review to determine that sufficient money will be available to help fund the Parks and Recreation SDC-CIP identified capacity~~-~~increasing facilities; to determine whether the adopted SDC rate keeps pace with inflation, whether the Parks and Recreation SDC-CIP should be modified, and to ensure that such facilities will not be over-funded by the SDC receipts.

B. In the event that, during the review referred to above, it is determined an adjustment to the SDC is necessary and consistent with state law, the City Council may propose and adopt appropriately adjusted SDCs.

C. The City Council may from time to time amend or adopt a new SDC Methodology Report by ordinance.

17.13.140 Time Limit on Expenditure of SDCs.

The City shall expend SDC revenues within ten (10) years of receipt, based on the priorities in the Parks and Recreation SDC-CIP list.

17.13.150 Implementing Regulations.

(Amended by Ordinance No. 187150, effective July 1, 2016)

The Director may adopt and amend by Administrative Rule regulations and procedures to implement the provisions of this chapter. Any Administrative Rule adopted under this Section shall be filed with the Auditor for inclusion in the Portland Policy Documents, in accordance with Chapter 1.07 of this Code. The Administrator may develop forms and procedures as needed to implement this chapter and the Administrative Rules.

17.13.160 Amendment of the Parks and Recreation SDC-CIP List.

(Amended by Ordinance No. 181669, effective January 1, 2009.) The City Council may, ~~by resolution,~~ amend ~~theits~~ Parks and ~~R~~recreation SDC-CIP list as set forth in the SDC Methodology Report from time to time to add or remove projects as the City deems appropriate. The Administrator may, at any time, change the description of the scope, and timing, for projects included in the Parks and Recreation SDC-CIP list. The Commissioner-in-Charge may change project budgets. Any amendment of the SDC-CIP list that increases an SDC rate may be adopted only by the Council after a public hearing as provided by ORS 223.309(2). An updated SDC-CIP list incorporating changes made under this Section will be posted on the Parks and Recreation website. ~~The Administrator may, at any time, change the timing and sequence for completion of projects included in the Parks and Recreation SDC CIP list.~~

17.13.170 Severability.

The provisions of this Chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this Chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this Chapter would have been adopted had such an unconstitutional provision not been included herein.